



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

February 4, 2014

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over a horizontal line.

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

SACRAMENTO UPDATE

Executive Summary

This memorandum contains reports on the following:

- **Pursuit of Position on County-Sponsored Legislation** - The California Public Records Act (CPRA) gives any person the right to inspect public records and to receive copies of public records from State and local agencies upon request and payment of a duplication fee. Under current law, certain documents are exempt from this disclosure, including records pertaining to pending litigation to which a public agency is a party to until the litigation has been finally adjudicated or otherwise settled. County Counsel indicates that existing law is not explicit as to whether attorney invoices and related documents in pending litigation are exempt from CPRA's disclosure provisions. Therefore, unless otherwise directed by the Board, consistent with existing policy to support proposals that amend the California Public Records Act to exempt disclosure of public entities' attorney billing records, such as invoices and time records, in pending litigation, **the Sacramento advocates will pursue County-sponsored legislation to amend CPRA to clarify that records pertaining to pending litigation to which a public agency is a party to, including attorney invoices, billing statements, and requests for payment, are exempt from the Act's disclosure provisions.**

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- **Status of County-Sponsored Legislation**

- **County-sponsored SB 498 (Lara)** - related to conversion technologies, passed the Senate Floor on January 28, 2014.
- **Status of County-Advocacy Legislation.** Updates on seven County-advocacy measures related to: 1) televising public meetings; 2) the Brown Act; 3) representation rights for public safety officers and firefighters; 4) unattended collection boxes; 5) reimbursement for special elections; 6) workers' compensation system reforms; and 7) design-build contract authority.
- **Legislation of County Interest.** Updates on three measures of County interest related to: 1) redevelopment successor agencies; 2) property tax agent registration requirements; and 3) hazardous waste regulatory system.

Pursuit of Position on County-Sponsored Legislation

California Public Records Act, Exemption of Records Related to Pending Litigation

Consistent with Board policy to support proposals to support legislation that amends the California Public Records Act (CPRA) to exempt disclosure of public entities' attorney billing records, such as invoices and time records, in litigation that is pending against a public entity or any of its departments or employees, as long as it preserves the purpose of the Act, we will pursue County-sponsored legislation that would amend the CPRA to clarify that records pertaining to pending litigation to which a public agency is a party to, including attorney invoices, billing statements, and requests for payment are exempt from the Act's disclosure provisions. This legislation would protect the legal interests of public agencies by ensuring that plaintiffs are unable to use CPRA requests to obtain information otherwise unavailable to them via normal civil discovery procedures.

The California Public Records Act gives any person the right to inspect public records and to receive copies of public records from State and local agencies upon request and payment of a duplication fee. Under current law, certain documents are exempt from this disclosure, including those records pertaining to pending litigation to which the public agency is a party to until the litigation has been finally adjudicated or otherwise settled.

However, County Counsel indicates that existing law is not fully explicit as to whether attorney invoices and related documents in pending litigation are exempt from CPRA's disclosure provisions. This potentially places public agencies at a disadvantage because opposing counsel may use CPRA requests as a vehicle to obtain records that otherwise would not be available to them through normal legal discovery procedures. County Counsel further indicates that the potential disclosure of public entity attorney billings, invoices, and time records could be damaging to the legal interests of public agencies because such records, when disclosed during the pendency of litigation, may reveal significant strategic facts to the opposing litigant. For example, County Counsel reports that information concerning how much attorney time has been devoted to a case, when such work has been performed, and by whom, necessarily reveals crucial facts about the litigation, including how the public entity may be valuing or assessing the particular case. In actions involving private entities, such information would be deemed privileged and irrelevant if sought through normal discovery procedures. County Counsel notes that this legislation is crucial to protecting the legal interests of the County and other public agencies by ensuring that plaintiffs are unable to use CPRA requests to circumvent the normal civil discovery procedures.

Therefore, unless otherwise directed by the Board, consistent with existing policy to support proposals that amend the California Public Records Act to exempt disclosure of public entities' attorney billing records, such as invoices and time records, in pending litigation, **the Sacramento advocates will pursue County-sponsored legislation to amend CPRA to clarify that records pertaining to pending litigation to which a public agency is a party to, including attorney invoices, billing statements, and requests for payment are exempt from the Act's disclosure provisions.**

Status of County-Sponsored Legislation

County-sponsored SB 498 (Lara), which as amended on January 27, 2014, would revise the definition of biomass conversion to mean the production of heat, fuels, or electricity by the controlled combustion of, or the use of other non-combustion thermal technologies on, those specified materials, passed the Senate Floor by a vote of 34 to 0 on January 28, 2014. This measure now proceeds to the Assembly.

Status of County-Advocacy Legislation

County-opposed AB 185 (Hernández), which as amended on April 23, 2013, would require a local agency that collects a franchise fee from the holder of a State franchise that provides Public, Educational, and Governmental Access channels to televise the open and public meetings of its legislative body and planning commission, or in cases of financial hardship, to broadcast the meetings via other audio or visual mediums, has

been held in the Assembly Local Government Committee since April 29, 2013. Therefore, this measure has missed the deadline to move from its house of origin and will not proceed.

County-opposed AB 194 (Campos), which as amended on January 27, 2014, would allow a district attorney or any interested party to commence judicial determination to declare an action taken by a local governing body as null and void if it is determined that the legislative body violated the Brown Act's public comment provisions, passed the Assembly Floor by a vote of 46 to 11 on January 29, 2014. This measure now proceeds to the Senate.

County-opposed SB 388 (Lieu), which as amended on January 17, 2014, would provide that when a public safety officer or firefighter is subject to interrogation, but not formally under investigation, in a matter that may result in punitive action against a public safety officer or firefighter, he/she is entitled to representation, passed the Senate Floor by a vote of 28 to 2 on January 30, 2014. This measure now proceeds to the Assembly.

County-opposed SB 450 (Galgiani), which as amended May 1, 2013, would authorize a local agency that has an ordinance regulating the placement of unattended collection boxes to impose a charge on the owner of a box in violation of the ordinance for the costs of its removal and storage, has been held in the Senate Governance and Finance Committee since May 8, 2013. Therefore, this measure has missed the deadline to move from its house of origin and will not proceed.

County-supported SB 519 (Emmerson), which as amended on April 1, 2013, would require the State to reimburse counties for expenses incurred between January 1, 2012 and December 31, 2013, for certain special elections called by the Governor, has been held in the Senate Appropriations Committee since May 23, 2013. Therefore, this measure has missed the deadline to move from its house of origin and will not proceed.

County-opposed SB 626 (Beall), which as amended on April 18, 2013, would repeal several provisions of the workers' compensation system reforms enacted in SB 863 (Chapter 363, Statutes of 2012), including provisions meant to streamline the medical care evaluation and dispute processes, was held in the Senate Labor and Industrial Relations Committee on January 15, 2014 at the request of the author. Therefore, this measure has missed the deadline to move from its house of origin and will not proceed.

County-supported SB 785 (Wolk), which as amended on January 14, 2014, would enact uniform provisions authorizing local agencies to utilize the design-build contract procurement process and lower the project cost threshold to \$1.0 million, passed the Senate Floor by a vote of 35 to 0 on January 27, 2014. This measure now proceeds to the Assembly.

Legislation of County Interest

AB 471 (Atkins), which as amended on January 17, 2014, would allow an Infrastructure Financing District (IFD) to include portions of former redevelopment project areas and make several changes to the laws governing the dissolution of redevelopment agencies (RDAs) was significantly amended on January 29, 2014.

As amended, the provisions related to amending an existing contract or agreement or creating a new contract or agreement for the purpose of administering projects in connection with long-term enforceable obligations were removed from the bill, as were the provisions requiring a successor agency to provide notification to the oversight board when entering into a contract or agreement for the use or disposition of properties designated in the long-term property management plan. The provisions related to allocating funds for an administrative cost allowance to local housing authorities remain in the bill; however, the distribution dates were changed and the funds would now be distributed by the successor agency rather than by the auditor controller. This office, the Auditor-Controller, the Community Development Commission, and County Counsel are reviewing the recent amendments and will report back on any potential impact to the County.

AB 1151 (Ting), which as amended May 7, 2013, would, beginning July 1, 2014, require property tax agents to register biannually with the Secretary of State before representing a taxpayer before any county official, has been held in the Assembly Appropriations Committee since May 24, 2013. Therefore, this measure missed the deadline to move from its house of origin and will not proceed.

SB 812 (De León), which as amended on January 17, 2014, would change the requirements pertaining to the renewal of hazardous waste facilities permits by requiring: 1) the owner or operator of a facility to submit its complete permit renewal application at least two years prior to the expiration date of the permit; 2) the California Department of Toxic Substances Control (DTSC) to approve or deny the permit renewal application within 36 months or the permit is deemed denied; 3) for permit renewal

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applications submitted prior to January 1, 2015, DTSC to approve or deny the application by January 1, 2018; and 4) interim status granted on or after January 1, 2015, terminate five years from the date the interim status is granted or on the date the department took final action on the application for a permit, passed the Senate Floor by a vote of 27 to 6 on January 28, 2014. This measure now proceeds to the Assembly.

We will continue to keep you advised.

WTF:RA
MR:VE:IGEA:ma

c: All Department Heads
Legislative Strategist